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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN JOSE DIVISION

13 SECURITIES AND EXCHANGE COMMISSION,  
14  
15 Plaintiff,  
16 v.  
17 GRANITE CONSTRUCTION INC.,  
18 Defendant.

Case No.

**[PROPOSED] FINAL JUDGMENT AS TO  
DEFENDANT GRANITE CONSTRUCTION  
INC.**

19 **[PROPOSED] FINAL JUDGMENT AS TO DEFENDANT GRANITE CONSTRUCTION,**  
20 **INC.**

21 The Securities and Exchange Commission having filed a Complaint and Defendant Granite  
22 Construction, Inc. (“Defendant”) having entered a general appearance; consented to the Court’s  
23 jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final  
24 Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction);  
25 waived findings of fact and conclusions of law; and waived any right to appeal from this Final  
26 Judgment:

27 I.

28 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is permanently  
restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities

Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant’s officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

## II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 (the “Securities Act”) [15 U.S.C. § 77q(a)] in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- (c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

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2 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal  
3 Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive  
4 actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers,  
5 agents, servants, employees, and attorneys; and (b) other persons in active concert or participation  
6 with Defendant or with anyone described in (a).

7 III.

8 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is permanently  
9 restrained and enjoined from violating, directly or indirectly, Section 13(a) of the Exchange Act [15  
10 U.S.C. §78m(a)] and Rules 12b-20, 13a-1, 13a-11, and 13a-13 promulgated thereunder [17 C.F.R.  
11 §§240.12b-20, 240.13a-1, 240.13a-11, and 240.13a-13] by failing to file, or by filing or causing to be  
12 filed, with the Commission any report required to be filed with the Commission pursuant to Section  
13 13(a) of the Exchange Act and the rules and regulations promulgated thereunder, which filed report  
14 omits to disclose any information required to be disclosed or such further information, if any, as may  
15 be necessary to make the statements, in light of the circumstances under which they were made not  
16 misleading.

17 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal  
18 Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive  
19 actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers,  
20 agents, servants, employees, and attorneys; and (b) other persons in active concert or participation  
21 with Defendant or with anyone described in (a).

22 IV.

23 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is permanently  
24 restrained and enjoined from violating, directly or indirectly, Section 13(a)(b)(2)(A) of the Exchange  
25 Act [15 U.S.C. §78m(b)(2)(A)] by failing to make and keep books, records, and accounts, which, in  
26 reasonable detail, accurately and fairly reflect the expenses and transactions of Defendant.  
27  
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1 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal  
 2 Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive  
 3 actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers,  
 4 agents, servants, employees, and attorneys; and (b) other persons in active concert or participation  
 5 with Defendant or with anyone described in (a).

6 V.

7 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is permanently  
 8 restrained and enjoined from violating, directly or indirectly, Section 13(a)(b)(2)(B) of the Exchange  
 9 Act [15 U.S.C. §78m(b)(2)(B)] by failing to devise and maintain a system of internal accounting  
 10 controls sufficient to provide reasonable assurances that transactions are recorded as necessary to  
 11 permit preparation of the financial statements in conformity with generally accepted accounting  
 12 principles or any other criteria applicable to such statements, and to maintain accountability for such  
 13 assets.

14 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal  
 15 Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive  
 16 actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers,  
 17 agents, servants, employees, and attorneys; and (b) other persons in active concert or participation  
 18 with Defendant or with anyone described in (a).

19 VI.

20 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant shall  
 21 pay a civil penalty in the amount of \$12,000,000 to the Securities and Exchange Commission  
 22 pursuant to Section 20(d) of the Securities Act[15 U.S.C. §77t(d)] and Section 21(d) of the Exchange  
 23 Act [15 U.S.C. §78u(d)] . Defendant shall satisfy this obligation by paying \$12,000,000 to the  
 24 Securities and Exchange Commission within ten days after the entry of this Final Judgment.

25 Defendant may transmit payment electronically to the Commission, which will provide  
 26 detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a  
 27 bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>.

1 Defendant may also pay by certified check, bank cashier's check, or United States postal money  
2 order payable to the Securities and Exchange Commission, which shall be delivered or mailed to:

3       Enterprise Services Center  
4       Accounts Receivable Branch  
5       6500 South MacArthur Boulevard  
6       Oklahoma City, OK 73169

7 and shall be accompanied by a letter identifying the case title, civil action number, and name of this  
8 Court; Granite Construction, Inc. as a defendant in this action; and specifying that payment is made  
9 pursuant to this Final Judgment.

10       Defendant shall simultaneously transmit photocopies of evidence of payment and case  
11 identifying information to the Commission's counsel in this action. By making this payment,  
12 Defendant relinquishes all legal and equitable right, title, and interest in such funds and no part of the  
13 funds shall be returned to Defendant.

14       The Commission may enforce the Court's judgment for penalties by the use of all collection  
15 procedures authorized by law, including the Federal Debt Collection Procedures Act, 28 U.S.C. §  
16 3001 *et seq.*, and moving for civil contempt for the violation of any Court orders issued in this action.  
17 Defendant shall pay post judgment interest on any amounts due after 30 days of the entry of this Final  
18 Judgment pursuant to 28 U.S.C. § 1961. The Commission shall hold the funds, together with any  
19 interest and income earned thereon (collectively, the "Fund"), pending further order of the Court.

20       The Commission may propose a plan to distribute the Fund subject to the Court's approval.  
21 Such a plan may provide that the Fund shall be distributed pursuant to the Fair Fund provisions of  
22 Section 308(a) of the Sarbanes-Oxley Act of 2002. The Court shall retain jurisdiction over the  
23 administration of any distribution of the Fund and the Fund may only be disbursed pursuant to an  
24 Order of the Court.

25       Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as  
26 civil penalties pursuant to this Judgment shall be treated as penalties paid to the government for all  
27 purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Defendant  
28 shall not, after offset or reduction of any award of compensatory damages in any Related Investor

1 Action based on Defendant's payment of disgorgement in this action, argue that it is entitled to, nor  
 2 shall it further benefit by, offset or reduction of such compensatory damages award by the amount of  
 3 any part of Defendant's payment of a civil penalty in this action ("Penalty Offset"). If the court in  
 4 any Related Investor Action grants such a Penalty Offset, Defendant shall, within 30 days after entry  
 5 of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay  
 6 the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission  
 7 directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to  
 8 change the amount of the civil penalty imposed in this Judgment. For purposes of this paragraph, a  
 9 "Related Investor Action" means a private damages action brought against Defendant by or on behalf  
 10 of one or more investors based on substantially the same facts as alleged in the Complaint in this  
 11 action.

## 12 VII.

13 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that based on  
 14 Defendant's agreement to cooperate in a Commission investigation and/or related enforcement  
 15 action, the Court is not ordering Defendant to pay a civil penalty in excess of \$12,000,000. If at any  
 16 time following the entry of the Final Judgment the Commission obtains information indicating that  
 17 Defendant knowingly provided materially false or misleading information or materials to the  
 18 Commission or in a related proceeding, the Commission may, at its sole discretion and without prior  
 19 notice to the Defendant, petition the Court for an order requiring Defendant to pay an additional civil  
 20 penalty. In connection with any such petition and at any hearing held on such a motion: (a)  
 21 Defendant will be precluded from arguing that it did not violate the federal securities laws as alleged  
 22 in the Complaint; (b) Defendant may not challenge the validity of the Judgment, this Consent, or any  
 23 related Undertakings; (c) the allegations of the Complaint, solely for the purposes of such motion,  
 24 shall be accepted as and deemed true by the Court; and (d) the Court may determine the issues raised  
 25 in the motion on the basis of affidavits, declarations, excerpts of sworn deposition or investigative  
 26 testimony, and documentary evidence without regard to the standards for summary judgment  
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1 contained in Rule 56(c) of the Federal Rules of Civil Procedure. Under these circumstances, the  
2 parties may take discovery, including discovery from appropriate non-parties.

3 VIII.

4 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent is  
5 incorporated herein with the same force and effect as if fully set forth herein, and that Defendant shall  
6 comply with all of the agreements set forth therein.

7 IX.

8 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain  
9 jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

10 X.

11 There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil  
12 Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without further notice.

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16 Dated: \_\_\_\_\_, 2022

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE